

**Application No.: 10/522,023**  
**Filing Date: January 21, 2005**

## **REMARKS**

### Specification

The Examiner suggests amending page 22, lines 20-21 to replace “FIG. 4(c)” on page 22 line 21 with –FIG. 4(b)-, and further to replace “FIG. 4(b)” on pg. 22 line 23 with –FIG. 4(c)-. Applicants have amended the specification as the Examiner has suggested.

### Claim Objections

The Examiner objects to Claims 3 and 10, indicating that the phrases “the smaller one” and “the same time” lack antecedent basis. As amended, Claims 3 and 10 do not contain these phrases, and they now refer to “a smaller value” and “at each given time.” Thus, Applicants submit that these objections are obviated.

### Claim Rejections – 35 USC § 112

The Examiner rejects Claims 3, 4, 10 and 11 under 35 U.S.C. § 112 as being indefinite. The Examiner contends that it is unclear whether the synchronous contraction waveform is a composite waveform in which each value at a given time is chosen from the lower pair of myoelectric potentials, or whether the synchronous contraction waveform is chosen to be the waveform that has the lower value during a particular turn. Applicants have amended Claims 3 and 10 to indicate that the synchronous contraction waveform is chosen to be the waveform that has the lower value during a particular turn. The claims as amended recite “generates a composite waveform by selecting the smaller value at each given time from values of the time-series waveforms of the pair of myoelectric potentials.” Applicants submit that the 112 objections are thus obviated.

### Double Patenting

The Examiner provisionally rejects Claims 1, 2 and 7 on the ground of obviousness-type double patenting over Claim 3 of Application Number 10/942,045. Applicants will file a terminal disclaimer the application is otherwise in condition for allowance.

Claim Rejections – 35 USC § 103

The Examiner rejects Claims 1-3, 5-10 and 12-14 under 35 U.S.C. § 103 as being obvious over JP2002-230699 (Okamoto) in view of JP2003-1770790 (Masaru). In order to establish a *prima facie* case of obviousness, the prior art references must teach or suggest all of the claim limitations. Applicants submit that the cited references fail to teach or suggest at least one limitation from each of the above-listed claims.

The cited references do not teach or suggest “detecting the myoelectric potentials of the pair of left and right muscles provided in the human body in bilaterally symmetrical relation” and “generating a synchronous contraction waveform of the pair of muscles from time-series waveforms of the pair of amplified myoelectric potentials,” as is recited in the independent claims. The Examiner contends that Okamoto teaches this limitation, citing paragraphs 22 and 35. However, Okamoto does not disclose generating a synchronous contraction waveform of **a pair of left and right muscles** provided in the human body in **bilaterally symmetrical relation**. Instead, calculations relate to multiplying waveforms from different muscles a single arm. On page 5 of the Office Action, the Examiner acknowledges that the examples show competitive values of biceps/triceps.

The Examiner contends that it is clear from [0022] that the same muscle of two sides of the body can also be used. Applicants respectfully disagree. The reference discloses identifying myoelectric potentials in order to determine whether an arm is going to be extended or contracted. *See* paragraph [0007]. Thus, one of skill in the art would not be motivated to generate a synchronous contraction waveform of a pair of left and right muscles, as it would only distort information regarding the extension or contraction of the arms. Disclosure of measuring potentials on both arms merely indicates that an “M<sub>n</sub>” value can be calculated for each arm.

Applicants submit that Masaru also does not teach or suggest “detecting the myoelectric potentials of the pair of left and right muscles provided in the human body in bilaterally symmetrical relation” and “generating a synchronous contraction waveform of the pair of muscles from time-series waveforms of the pair of amplified myoelectric potentials,” as is recited in the independent claims. Thus, Claims 1 and 8, and all corresponding dependent claims, are not obvious in view of the cited art.

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No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Serial Number	Title	Filed
10/522,022	STRESS-AT-WORK JUDGING APPARATUS, STRESS-AT-WORK JUDGING PROGRAM, AND STRESS-AT-WORK JUDGING METHOD	January 21, 2005

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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